

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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JAMES W. WARR

DIRECTOR

BOB RILEY

GOVERNOR

June 4, 2003

U. S. Army Corps of Engineers
P. O. Box 2288
Mobile, Alabama 36628-0001

Re: After-The-Fact Corps permit application
Eugene A. Wimpee
AL02-01214-L-AF/COE-02-026

Facsimiles: (334)

Administration: 271-7950
General Counsel: 394-4332
Air: 279-3044
Land: 279-3050
Water: 279-3051
Groundwater: 270-5631
Field Operations: 272-8131
Laboratory: 277-8718
Mining: 394-4328
Education/Outreach: 394-4393

Dear Sir:

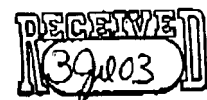
The proposed project, an after the fact permit request, is for fill of adjacent wetlands on Weeks Bay, Baldwin County, Alabama. The Alabama Department of Environmental Management has completed its review of the above referenced proposal to fill 0.38 acre of forested wetlands adjacent to Weeks Bay, Lots 26 and 27, Magnolia Landing Subdivision, Magnolia Springs, Baldwin County, Alabama for a road to harvest trees. Partial filling and grading on the site had begun and the U.S. Army Corps of Engineers (USACOE) issued a Cease and Desist Order dated July 3, 2001. Partial filling of 700 feet by 15 feet for a road occurred before the C&D Order was issued and the applicant proposes to keep that fill and to fill 300 more feet for a total road length of 1,000 feet by 15 feet with a circular turn around at the end. Approximately 1,200 C.Y. of fill material would be used to complete the project. The applicant states the long term purpose of the road might be to provide access to a residential structure on-site.

The proposed project is located within Alabama's Coastal Area and is regulated by ADEM Division 8 Coastal Program regulations. The Corps of Engineers advertisement of this project by joint public notice with ADEM has been completed. On the basis of a review of all materials submitted and associated with the proposal, it is the opinion of the technical staff that a decision relative to coastal consistency and water quality certification is appropriate.

Wetlands have a high functional value because of their ability to provide storm water retention and storage, nutrient export and primary productivity, purification and filtration of water, erosion control, wildlife and fishery habitat, and groundwater recharge. ADEM Division 8 regulation 335-8-2-.02 Dredging and or Filling states:

(1) "Dredging and/or filling of State waterbottoms or adjacent wetlands may be permitted or certified to be in compliance with the ACAMP provided that:

(a) the activity is related to an existing or approved water dependent use, or use of regional benefit or related to an approved beach nourishment, shoreline stabilization or marsh creation, restoration or enhancement project, elimination of dead-end canals or boatslips exhibiting poor water quality or other similar beneficial use;



Birmingham Branch
110 Vulcan Road
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(205) 942-6168
(205) 941-1603 [Fax]

Decatur Branch
2715 Sandlin Road, S.W.
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(256) 353-1713
(256) 340-9359 [Fax]

Mobile Branch
2204 Perimeter Road
Mobile, Alabama 36615-1131
(251) 450-3400
(251) 479-2593 [Fax]

Mobile - Coastal
4171 Commanders Drive
Mobile, Alabama 36615-1421
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(b) there will be no dredging or filling in close proximity to existing natural oyster reefs, as defined pursuant to Code of Alabama 1975, §§ 9-12-21, except in association with the approved creation or enhancement of oyster reefs or artificial fish attracting structures;

(c) there will be no dredging or filling in close proximity to existing submersed grassbeds;

(d) dredging, filling or trenching methods and techniques are such that reasonable assurance is provided that applicable water quality standards will be met; and

(e) no alternative project site or design is feasible and the adverse impacts to coastal resources have been reduced to the greatest extent practicable."

The proposed project does not meet the requirements of the ADEM Division 8 Regulation stated above. Pursuant to ADEM Administrative Code Rule 335-8-1-.09 and in accordance with 15 C.F.R. Part 930, for the reason stated above, the Department objects to the applicant's determination of consistency with the Alabama Coastal Area Management Program.

By copy of this letter, the applicant is notified of his right of appeal to the U. S. Secretary of Commerce as set forth in 15 C.F.R. Part 930, Subpart H, on the grounds that the activity is consistent with the objectives or purposes of the Coastal Zone Management Act or is necessary in the interest of national security, within 30 days of receipt of this letter.

If ADEM can be of further assistance to you please feel free to contact Brad Gane at (251) 432-6533.

Sincerely,



Steven O. Jenkins, Chief
Field Operations Division

cc Eugene A. Wimpee (certified copy)
Chuck Sumner, Mobile District, U.S. Army Corps of Engineers
Mark Van Hoose, ADCNR, Dauphin Island
Darryl Williams, USEPA, Atlanta
Larry Goldman, USFWS, Daphne
Phillip Hinesley, ADCNR, Fairhope
✓ Scott B. Gudes, Deputy Undersecretary, US Department of Commerce